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38  
39 UNITED STATES DISTRICT COURT  
40 NORTHERN DISTRICT OF CALIFORNIA  
41 SAN FRANCISCO DIVISION

42 JUNIPER NETWORKS, INC. and  
43 APSTRA, INC.,

44 Plaintiffs,

45 v.

46 SWARM TECHNOLOGY LLC,

47 Defendant.

48 CASE NO. 3:20-cv-03137-JD

49  
50 STIPULATION TO SET DEADLINES  
51 RELATING TO DEFENDANT'S MO-  
52 TION FOR LEAVE TO FILE  
53 AMENDED COUNTERCLAIMS

Pursuant to Civil Local Rules 6-2(a) and 7-12, Plaintiffs, Juniper Networks, Inc. and Apstra, Inc. (collectively “Plaintiffs”), and Defendant, Swarm Technology LLC (“Swarm”), stipulate, subject to the Court’s approval, to extend the deadline for Plaintiffs to respond to Swarm’s Motion for Leave to File Amended Counterclaims (Dkt. No. 98) (“Motion for Leave”) from September 20, 2022 to October 4, 2022 and to extend the deadline for Swarm to reply from September 27, 2022 to October 18, 2022. The Parties further stipulate, under Civil Local Rules 7-2(a) and subject to the Court’s approval, that the Motion for Leave be set for a hearing (if any) on November 3, 2022 at 10:00 AM.

The Parties seek the requested relief to accommodate conflicts and commitments in other matters, and to foster the efficient briefing and hearing of issues relating to Swarm’s proposed amended counterclaims. Plaintiffs intend to oppose Swarm’s Motion for Leave on the basis that allowing Swarm’s proposed amended counterclaims would be futile because they wouldn’t survive a 35 U.S.C. § 101 eligibility challenge under FRCP 12(b)(6). Thus, the parties agree that should the Court grant Swarm’s Motion for Leave (in whole or in part) after considering Plaintiffs’ positions and arguments in opposition, Plaintiffs will answer the duly-filed amended counterclaims and won’t file an FRCP 12(b)(6) motion to dismiss the amended counterclaims under § 101.

No other deadlines will be impacted by this extension of time. The parties have previously stipulated to two extensions for Swarm to respond to the original complaint (Dkt. Nos. 16-17), an extension for Juniper to respond to Swarm’s original motion to dismiss (Dkt. No. 21), an extension for Plaintiffs to respond to Swarm’s motion to dismiss the amended complaint, for Swarm to file its reply in support of its motion to dismiss, and the hearing on Swarm’s motion to dismiss (Dkt. Nos. 41-42), an extension for Plaintiffs to respond to Swarm’s counterclaims (Dkt. No. 68), an extension for Plaintiffs to respond to Swarm’s opposition to motion to dismiss counterclaims (Dkt. No. 81), and two extensions for Swarm to file amended counterclaims (Dkt. Nos. 94 and 97).

Accordingly, the Parties respectfully request that the Court enter this stipulation.

Respectfully submitted,

Dated: September 14, 2022

By: /s/ Ken K. Fung

Ken K. Fung

*Counsel for Plaintiffs*

*JUNIPER NETWORKS, INC. and APSTRA, INC.*

Dated: September 14, 2022

By: /s/ *Suneel Jain*

Suneel Jain

*Counsel for Defendant*

SWARM TECHNOLOGY LLC

Filer's Attestation: I attest that counsel for the parties have concurred in this filing.

/s/ Ken K. Fung

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Ken K. Fung

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated:

/s/